

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT LEON BEANE, JR.,

Petitioner,

Case No. 1:15-cv-57

v.

Honorable Paul L. Maloney

BONITA HOFFNER,

Respondent.

ORDER REGARDING LEAVE TO PROCEED IN FORMA PAUPERIS ON APPEAL

This is a habeas corpus action brought by a state prisoner pursuant to 28 U.S.C. § 2254. On August 28, 2017, the Court entered a judgment denying the petition. (ECF No. 22.) The Court also denied Petitioner a certificate of appealability. (ECF No. 21.) Petitioner now has filed a notice of appeal. Petitioner is seeking leave to proceed on appeal *in forma pauperis*. (ECF No. 25.)

Federal Rule of Appellate Procedure 3(e) provides that the appellant must pay all required fees at the time a notice of appeal is filed with the district court. The docketing fee for a case on appeal is \$500.00. See 28 U.S.C. § 1913; 6 Cir. I.O.P. 3; Court of Appeals Miscellaneous Fee Schedule § 1 (Dec. 1, 2013). In addition, under 28 U.S.C. § 1917, a \$5.00 filing fee must be paid to the district court. Petitioner has failed to pay the required fees.

Petitioner was permitted to proceed before this Court *in forma pauperis*. Pursuant to Rule 24(a) of the Federal Rules of Appellate Procedure, he may continue that status on appeal unless this court certifies that his appeal is not taken in good faith. Good faith is judged objectively, and an appeal is taken in good faith when it seeks review of an issue which is not frivolous. *Coppedge v. United States*, 369 U.S. 438, 445 (1961). Detailed reasons for dismissal

of the petition were provided in the report and recommendation adopted by the Court. (Report and Recommendation, ECF No. 21.)

The Court reaffirms its decision and finds that the issues on which Petitioner seeks review are frivolous. The Court, therefore, certifies that the appeal is not taken in good faith. If Petitioner wishes to proceed with his appeal, he must pay the \$505.00 appellate fee to the Clerk of this Court within 28 days of this order. *See* 28 U.S.C. §§ 1913, 1917; 6 CIR. I.O.P. 3; Court of Appeals Miscellaneous Fee Schedule § 1 (Dec. 1, 2013). Alternatively, Petitioner may file a motion for leave to proceed *in forma pauperis* in the Court of Appeals pursuant to the requirement set forth in FED. R. APP. P. 24(a)(5).

IT IS ORDERED that Petitioner's application for leave to proceed *in forma pauperis* on appeal (ECF No. 25) is DENIED. The Court certifies that the appeal is not taken in good faith. If Petitioner wishes to proceed with his appeal, he must pay the \$505.00 appellate fee to the Clerk of this Court within 28 days of this order. *See* 28 U.S.C. §§ 1913, 1917; 6 CIR. I.O.P. 3; Court of Appeals Miscellaneous Fee Schedule § 1 (Dec. 1, 2013). Alternatively, Petitioner may file a motion for leave to proceed *in forma pauperis* in the Court of Appeals pursuant to the requirement set forth in FED. R. APP. P. 24(a)(5).

Dated: October 31, 2017

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge